

CULTURAL AFFAIRS DEPARTMENT[221]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 303.1A(6) and 303A.5, the Department of Cultural Affairs hereby gives Notice of Intended Action to adopt new Chapter 13, "Iowa Cultural Trust," Iowa Administrative Code.

The proposed new rules are organizing rules for the Iowa Cultural Trust. The Trust was established in the Iowa Code several years ago but is only now beginning to organize its grant-making function. Iowa Code section 303.1A(6) and chapter 303A indicate that rules should be established for both the grant-making and the establishment of trust credits in this program.

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on July 21, 2009. Interested persons may submit written or oral comments by contacting Kristen Vander Molen, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)281-6975; E-mail Kristen.VanderMolen@iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-4228.

Also, there will be a public hearing at 10 a.m. on July 21, 2009, at the above address in the Tone Board Room, Third Floor West, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department and advise of specific needs.

These rules are intended to implement Iowa Code section 303.1A(6) and chapter 303A.

The following amendment is proposed.

Adopt the following **new** 221—Chapter 13:

CHAPTER 13 IOWA CULTURAL TRUST

221—13.1(303) Program purpose. The purpose of the Iowa cultural trust is to assist Iowa nonprofit arts, cultural and historical organizations in building stability and sustainability through the Iowa cultural trust fund.

221—13.2(303) Program description. The cultural trust fund receives, preserves, invests, and expends moneys appropriated by the general assembly together with any other gifts, bequests, donations, or grants from federal or private sources directed to the fund's purposes.

221—13.3(303) Definitions. The following definitions shall apply when used in this chapter unless otherwise noted:

"Application" means an official cultural trust grant application form as provided by the department.

"Arts organization" means an eligible organization with the arts as its primary mission and purpose. The organization must operate as an arts organization, including but not limited to an art museum, performing arts-producing organization, or community arts agency.

"Board" means the board of trustees of the Iowa cultural trust, as provided in Iowa Code section 303A.5.

“*Cash match*” means funds that are locally contributed for a cultural trust grant project. Matching funds shall be provided by the eligible applicant and shall not include any portion of another department of cultural affairs, Iowa arts council, or state historical society of Iowa grant.

“*Cultural organization*” means an eligible organization with culture, the sciences or humanities as its primary mission and purpose. The organization must operate as a cultural organization including but not limited to a cultural center, civic arts-presenting venue, botanical center, science museum, children’s museum, arboretum, or zoo.

“*Department*” means the Iowa department of cultural affairs (DCA).

“*Director*” means the director of the department of cultural affairs or the director’s designee.

“*Endowment*” means a collection of funds, typically invested in long-term assets that produce income for an organization. Generally, the endowed asset is kept intact and a portion of the income generated by it is used by the organization for operational costs.

“*Grantee*” means any applicant receiving grant funds under a cultural trust grant program.

“*Grant review panel*” means a group of at least three individuals with knowledge of cultural organizations, nonprofit best practices, and strategic planning who review grant applications according to the published criteria, with the responsibility to make funding recommendations to the board.

“*Historical organization*” means an eligible organization with history as its primary mission and purpose. The organization must operate as an historical organization, including but not limited to an historical museum, interpretive center, historical society, historical library or archival repository.

“*Trust fund credits*” means moneys raised by Iowa nonprofit arts, cultural and historical organizations to increase the amount of their endowments and other resources, as reported to the department.

221—13.4(303) Trust fund credits.

13.4(1) Annually, the director shall certify to the state treasurer the trust fund credits gained by Iowa arts, cultural, and historical organizations in the previous year.

13.4(2) Criteria. In determining trust fund credits, the director shall:

- a. Review reports from major arts, cultural, and historical organizations to determine the amount which has been given to their endowments in the previous year.
- b. Review final reports from departmental grants to determine the amount of cash match contributed to granted projects in arts, cultural, and historical organizations. Cash match amounts indicate nonpublic support provided to organizations.

221—13.5(303) Cultural trust grant programs.

13.5(1) *Grant program eligibility.* Applicants may include any arts, cultural, or historical organization that is either an Iowa organization that is federally tax exempt under United States Internal Revenue Code Section 501(c)(3) and incorporated under the Iowa nonprofit corporation Act or an Iowa organization that operates as an arts, cultural, or historical department or division of a municipal or county government that is also federally tax exempt under Section 501(c)(3) and incorporated in Iowa under the Iowa nonprofit corporation Act (does not include public libraries, parks, or recreation departments). Additional eligibility criteria are as listed in published guidelines for individual grant programs.

13.5(2) *Ineligible applicants.* The following entities are not eligible to apply for cultural trust grants:

- a. Any individual.
- b. An entity of federal or state government.
- c. An organization applying through a fiscal agent.
- d. An organization with an outstanding late final report to the department or any of its divisions.
- e. A public (nonhistorical/cultural) library, park, or recreation center.
- f. A for-profit corporation or business.
- g. A religious organization, labor union, political party, or national service/professional organization.

h. An educational institution, organization, or K-12 school, whose primary orientation, mission, and purpose is education and the awarding of academic credits.

i. An organization that has already received funding for the same project from another department grant program.

13.5(3) Cultural trust stability grants. Stability grants support projects that will help Iowa cultural organizations reach goals of fiscal stability and institute best practices in organizational strategic planning and management.

a. Applicants may request support for one or more of the following:

(1) Contractual costs for a consultant to advise on strategies to attain long-term financial stability and sustainability.

(2) Salary or contractual costs for a fundraising consultant or to support a fundraising staff position.

(3) Costs related to board or staff training in fundraising or endowment building or both.

(4) Costs related to a strategic planning process that includes development of strategies related to long-term financial stability and sustainability.

b. General stability grant program policies.

(1) Applicants may request up to 50 percent of the project cost, to a maximum of \$2,500.

(2) All applications must show a dollar-for-dollar cash match.

(3) No organization may receive more than one stability grant in a single fiscal year.

(4) Applicants must have been incorporated in their community for a minimum of three years.

(5) Applicants must participate in training for nonprofit strategic planning and administrative best practices prior to applying for grant funding or receive a waiver of the training requirement from the department.

13.5(4) Application procedures. All cultural trust grant inquiries and correspondence, including the submission of completed application forms for consideration of funding, shall be addressed to the Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319. All applications shall be submitted according to the department's published guidelines.

13.5(5) Review process. All applications submitted shall be reviewed by a grant review panel, and the panel's recommendations for grantees and grant awards shall be submitted to the board. The board shall determine final grant awards to the extent funds are available.

13.5(6) Review criteria. Review criteria shall include, but not be limited to, the project's ability to enhance the future stability and sustainability of the eligible applicant. Additional review criteria are as listed in the published project guidelines.

13.5(7) Grant deadline. The department may establish one or more grant deadlines for the submission of cultural trust grant applications each year funds are available.

13.5(8) Contractual agreement. The department and each successful grantee shall enter into a contractual agreement prior to the expenditure of project-related funds. No grant or matching funds may be obligated or expended for the project prior to the execution of the contractual agreement by the department and the grantee. A grantee must expend all awarded funds within the time frame named in the contractual agreement.

13.5(9) Auditing requirements. The department reserves the right to request an audit of the expenditures of any cultural trust-funded project at the expense of the grantee.

13.5(10) Informal appeals.

a. An informal appeals process shall be made available only to applicants whose applications were declined on procedural impropriety or error as evidenced by one or more of the following reasons:

(1) Application declined on the basis of review criteria other than those appearing in rule or relevant guidelines;

(2) Application declined based on influence of the review panel willfully failing to disclose conflicts of interest;

(3) Application declined based upon highly erroneous information provided by staff or advisory committee members at the time of the review despite the fact that the applicant provided the department with accurate and complete information on regulation forms as part of the standard application process.

b. Incomplete or ineligible applications, or applications failing to meet the application deadline, are specifically denied any appeals process.

c. All requests for appeals shall be made in writing and shall be hand-delivered or bear a U.S. Postal Service postmark within 30 days of notification of the decision. The director shall consider and rule on the appeal and will notify the appellant in writing of the decision within 30 days from the receipt of the appeal. The decision of the director is final except as provided for in Iowa Code sections 17A.19 and 17A.20.

These rules are intended to implement Iowa Code section 303.1A(6) and chapter 303A.